

REMARKS

Applicants have carefully reviewed the Office Action mailed August 12, 2003. Claims 1 and 3-41 are pending. Claims 35-40 have been withdrawn from consideration. Claims 1, 3-34, and 41 were rejected.

Information Disclosure Statement

Applicants wish to alert the Examiner that they have not received an initialed copy of the form PTO-1449 accompanying the Information Disclosure Statement mailed September 26, 2002 (and received by the PTO on October 1, 2002 as noted on return postcard). Applicants therefore request that you enclose an initialed copy with the next communication. As this Information Disclosure Statement was submitted prior to the mailing of a Final Office Action and was accompanied by the fee set forth in 37 C.F.R. § 1.17(p), it is entitled to consideration under 37 C.F.R. § 1.97.

For your convenience, another copy of this PTO-1449 form is enclosed.

Claim Rejections—35 U.S.C. § 102

Claims 1 and 41 were rejected under 35 U.S.C. § 102(e) as being anticipated by Samson et al. (U.S. Patent No. 6,090,099). Applicants respectfully traverse the rejection.

Samson et al. do not disclose all the elements of independent claim 1. The element of claim 1 “a distal tip having a shapeable length that is shapeable by thermoforming techniques” is not a product-by-process limitation as asserted in the Office Action. It is a structural limitation entitled to full patentable weight. No equivalent structure is disclosed by Samson et al. Claim 1 does not require the length *to be shaped* by thermoforming techniques. Rather, it requires a length that *can be shaped* by thermoforming techniques. In other words, once a catheter according to this claim is manufactured, it has a distal tip having a length that can be shaped by thermoforming techniques. Whether the catheter has a length that has been shaped by thermoforming techniques during the manufacturing process is immaterial to the requirements of the claim. It is, therefore, readily apparent that Samson et al. do not disclose a catheter having this shapeable length as well as the other elements of claim 1.

As is pointed out in the Office Action, the closest structure to the this element of claim 1 that Samson et al. disclose is when, in the manufacturing process, the outer layer 208 is attached

to the catheter by heat shrinking or other suitable technique. See column 6, lines 23-31. However, this is a mere method of manufacture and does not result in a catheter having a distal tip having a shapeable length that is shapeable by thermoforming techniques, as required by claim 1.

Unlike the catheter disclosed by Samson et al., the catheter of claim 1 has a distal tip which may be given a shape such, as a bend, after it has been manufactured. For example, a doctor may be able to shape the tip of the catheter into a desired configuration for a particular patient's vasculature.

Because Samson et al. do not disclose each and every element of the invention of claim 1, they do not anticipate the claim. Applicants, therefore, submit that claim 1 is in condition for allowance.

Claim 41 also requires a catheter having an elongate shaft having a distal tip having a shapeable length that is shapeable by thermoforming techniques. Therefore, for the reasons discussed above with respect to claim 1, Samson et al. do not disclose each and every element of the invention and does not anticipate the claim. Applicants, therefore, submit that claim 41 is in condition for allowance.

Claim Rejections—35 U.S.C. § 103

Claims 1, 3-6, 8-11, 13, 14, 15, 17 and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Samson et al. Additionally, claims 1, 3-34 and 41 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Samson et al. as applied above and further in view of Nita et al. (U.S. Patent No. 5,951,539). Applicants respectfully traverse these rejections.

As discussed above in detail, Samson et al. do not disclose the element of a distal tip having a shapeable length that is shapeable by thermoforming techniques. Likewise, Nita et al. do not disclose this element. This element is required by all three independent claims, claims 1, 19 and 41. As the prior art, alone or in combination, does not disclose each and every element of the inventions of these claims, Applicants submit that these claims are in condition for allowance. As claims 3-18 and 20-34 depend from claims 1 and 19, respectively, and contain additional elements, Applicants submit that these claims are also in condition for allowance.

Appl. No. 09/839,065
Response dated November 12, 2003
Reply to Office Action of August 12, 2003

Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

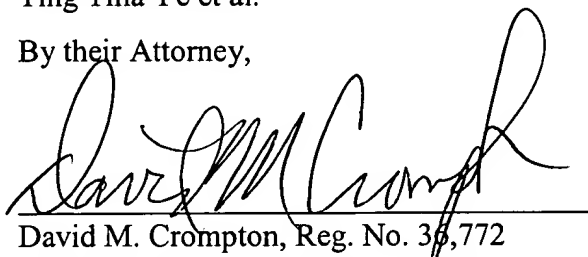
Respectfully submitted,

Ting Tina Ye et al.

By their Attorney,

Date: _____

11/12/03



David M. Crompton, Reg. No. 36,772
CROMPTON, SEAGER & TUFTE, LLC
1221 Nicollet Avenue, Suite 800
Minneapolis, MN 55403-2420
Telephone: (612) 677-9050
Facsimile: (612) 359-9349